MYSORE ACT No. VII OF 1913.

THE MYSORE VILLAGE COURTS ACT, 1913.

(AS AMENDED BY ACTS III OF 1917, IX OF 1920, VI OF 1923 AND XI OF 1928.)

(Received the assent of His Highness the Maharaja on the eleventh day of October 1913.)

An Act for the Establishment of Village Courts in [1][the State of Mysore except Bellary District].

Preamble.

WHEREAS it is expedient to provide for the establishment of Village Courts in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows :—

CHAPTER I.

PRELIMINARY.

Title, commencement and local extent.

1. (1) This Act may be called "The Mysore Village Courts Act 1913."

(2) It shall come into force on the first day of January 1914.

(3) It shall extend to such village or villages in [1][the State of Mysore except Bellary District] as may, from time to time, be notified by Government in the official Gazette.

Interpretation clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"Village."

"Village" means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Act.

"District Judge and "Munsiff."

[2]["District Judge" means the District Judge of the District in which the Village Court is situate.

"Munsiff" means the Judge of the lowest grade appointed under the Mysore Civil Courts Act, I of 1883,

1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act III of 1917.

to exercise the jurisdiction of a Civil Court over the locality in which the Village Court is situate.]

"Deputy Commissioner" shall mean the Deputy Commissioner of the District in which the Village Court is situate. "Deputy Commissioner."

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF VILLAGE COURTS.

3. The Government may, from time to time, by notification published in the official Gazette,— Establishment of Village Courts.

(1) establish a Village Court for any village or specified area ;

(2) group two or more villages and establish a Village Court for them ;

(3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Act shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

4. Village Munsiff shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may, from time to time, prescribe ; provided that no person not residing within the village shall be eligible for that office. Appointment of Village Munsiffs.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff. Suspension or removal of Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without a requisition from the District Judge, or to the High Court, if passed upon such requisition. The decision of the Revenue Commissioner or the High Court, as the case may be, on all such appeals shall be final. Appeals from the above orders to whom lie.

(Chapter II—Establishment and Constitution of Village Courts)

Provisions concerning Benches.

List of persons qualified to serve as members of a Bench.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Act. Such list shall also be hung up in the Court-house of the Village Munsiff.

Either party to a suit may claim a trial by Bench.

(2) In any suit which may be instituted before a Village Court under this Act, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three Judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1).

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default :

Provided that the person nominated under this section shall not be the servant, dependant, relative or tenant of the party on whose behalf he is nominated, and shall not be personally interested in the result of the suit.

Member of Bench to be summoned by Village Munsiff.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

Procedure.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the

decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Liability to serve on Bench.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month ; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

Penalty for refusing or omitting to serve.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

Register of suits filed, and record of proceedings held, before Village Courts

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

Seal.

8. Every Village Court shall use a seal with the name of the Court inscribed in Kannada characters and shall use it for stamping summonses, decrees and copies of documents issued by it.

Service of summonses, etc.

9. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Act and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Act.

Power of Deputy Commissioner to appoint persons to perform duties mentioned in Sections 7 and 9.

10. The Deputy Commissioner of the District may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by Sections 7 and 9, respectively.

(Chapter III—Jurisdiction, Res Judicata and Limitation)

CHAPTER III.

JURISDICTION, RES JUDICATA AND LIMITATION.

Cognizance of suits by Village Courts.

11. The following are the suits which shall be cognizable by Village Courts, namely :—

Claim based on contract for money due, or claims for movable property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees [1][forty], whether on balance of account or otherwise :

Proviso.

Provided that no action shall be brought in any such Court—

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents ;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will ;

(3) for the rent for land unless such rent is due upon a written contract signed by the defendant ;

(4) by or against public officers in their official capacity ;

(5) by and against minors or persons of unsound mind.

Jurisdiction with consent.

12. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in Section 11, the amount or value of which shall not exceed Rs. 200.

Exclusive jurisdiction of Village Courts in cases cognizable by such Courts.

13. No suit cognizable by the Village Court under this Act shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Court.

Proviso.

Provided that all such cases pending in any Court at the time this Act comes into force shall be heard and determined by such Court ; and decrees passed in suits, which shall not have been satisfied prior to such time, shall be executed by such Courts.

1. Substituted by Act XI of 1928.

(Chapter III—Jurisdiction, Res Judicata and Limitation)

Court in which suits to be instituted.

14. Subject to the provisions contained in Section 15, every suit brought under this Act shall be instituted in the Village Court within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

Suits in which the Village Munsiff is personally interested.

15. No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

Res judicata

16. No Village Court shall try any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Suit to include whole claim.

17. Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Relinquishment of part of claim.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Incidental determination of matters not cognizable by Village Courts.

18. If in the decision of a suit cognizable by a Village Court under Sections 11 and 14 it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognizable under this Act by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

(*Chapter IV—Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance*)

Limitation.

19. The provisions of the [1]Mysore Limitation Act shall apply to suits and applications under this Act :

Proviso.

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

Transfer of suits.

20. The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction :

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Act, 1900, in respect thereof.

CHAPTER IV.

OF THE INSTITUTION AND FRAME OF SUITS, RECOGNIZED AGENTS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENT AND CONSEQUENCES OF NON-APPEARANCE.

Suit to be commenced by plaint.

21. Every suit under this Act shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Particulars to be contained in plaint.

22. The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars :—

(*a*) the name, description and residence of the plaintiff and defendant ;

(*b*) a concise statement of the cause of action and when it arose ;

(*c*) the relief prayed for and the total amount or value of the claim.

1. See the Part B States (Laws) Act, 1951 (Central Act III of 1951.)

(*Chapter IV—Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance*)

Appearance in person or by agent.

23. No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court: provided that in all cases, a Village Court shall be competent to order the personal appearance of any party.

Registry of plaint and issue of summons.

24. When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

Mode of service when defendant evades service.

25. If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the Court-house of the Village Munsiff.

Mode of service when defendant is beyond local jurisdiction of Court.

26. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself and shall then return it to the Village Court together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

27. If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served at least two clear days before the date of hearing, the Village Court may proceed *ex-parte*.

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

(Chapter IV—Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance.

Process to be served at expense of party issuing.

28. Every summons served under this Act otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by Government.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

29. If, on the day fixed for the defendant to appear,—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear, the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

Procedure where plaintiff does not appear and defendant admits claim.

30. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, and where part only of the claim is admitted shall dismiss the suit so far as it relates to the remainder.

Setting aside order under Section 29 on cause shown.

31. (1) Whenever a suit is dismissed under clause (1) or clause (3) of Section 29, the plaintiff may bring a fresh suit, and if within the time allowed by the law of limitation the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside order under Sections 29 (2) and 30.

(2) When a suit is dismissed under sub-section (2) of Section 29 or partially dismissed under Section 30, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, but he may within the time allowed by the law of limitation apply for an order to set aside the dismissal and if he satisfies the Court that he was prevented from any sufficient cause

from appearing, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside *ex-parte* decree against defendant.

32. Any defendant against whom a decree has been passed *ex-parte* may, within the time allowed by the law of limitation, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party.

33. No dismissal or decree shall be set aside on any application under Section 31 or Section 32, unless notice has been served on the opposite party.

CHAPTER V.

OF THE HEARING, WITHDRAWAL OR COMPROMISE OF SUITS, AND OF THE SUMMONING AND EXAMINATION OF WITNESSES.

Procedure on appearance of both parties.

34. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal of suit.

35. If the plaintiff wishes to withdraw the suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit may be settled by oath.

36. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

(Chapter V—Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses)

Set-off.

37. The defendant may set-off any amount legally due to him by the plaintiff for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses not present to be summoned.

38. When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Summons to witness how served.

39. Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within five miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such place there is no Village Court, through the patel of the village in which the witness resides. If any witness resides more than five miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff or if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Interrogatories.

Summons to appear and give evidence or produce document.

40. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Liability of witnesses to attend and give evidence or produce document.

41. Witnesses summoned by a Village Court to give evidence or to produce a document shall, except for reasonable cause, be bound so to attend and give evidence and produce or cause the production of the document summoned.

(Chapter VI—Of the Decree and its Execution)

Exemption of certain persons from personal appearance.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

Examination of Witnesses.

43. Witnesses shall be examined in open Court on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

Adjournment in view to amicable settlement or for other cause.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by Sections 29 and 30, or make such other orders as it thinks fit.

CHAPTER VI.

OF THE DECREE AND ITS EXECUTION.

On conclusion of hearing, Court to pass decree.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such decree as may seem just, equitable and according to good conscience.

Contents of decree.

46. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

(2) The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed

by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

Decree may award interest or order payment by instalments.

47. In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

Court by which decree may be executed.

48. The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Decree for specific movable how executed.

49. If the decree is for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Payment of money under a decree or other adjustment to be made or recorded in the presence of the Village Munsiff.

50. All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in Section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

Judgment-debtor not to be arrested nor immovable property attached.

51. Except where the decree is executed by a Munsiff, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

(Chapter VI—Of the Decree and its Execution)

Attachment of movable property.

52. On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor pointed out by the decree-holder to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment, *viz.* :—

(*a*) the necessary wearing apparel, cooking vessels, beds, and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(*b*) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;

(*c*) books of account;

(*d*) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund notified in the official Gazette by Government in this behalf, and political pensions;

(*e*) the salary due to a public officer or to any servant of a Railway Company or local authority;

(*f*) the pay and allowances of persons to whom the Indian Army Act, 1911, applies and of those belonging to the Mysore Military Forces;

(*g*) the wages of labourers and domestic servants whether payable in money or in kind;

(*h*) the arms, horse, clothes, equipments, regimental accoutrements and necessaries of the members of the Mysore Military Forces;

(*i*) where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or persons entitled to such bonus under the said rules;

(*j*) any amount payable by the Military Department to the members of the Mysore Military Forces out of a retiring fund.

Explanation I.—The expression "Mysore Military Forces" occurring in this section shall have the meaning given to it in the Code of Civil Procedure, 1911.

Explanation II.—The particulars mentioned in clauses (*d*), (*e*), (*f*), (*g*) and (*j*) are exempt from attachment or sale whether before or after they are actually payable.

Attachment when property is in possession of the judgment-debtor.

53. If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment when such property is not in possession of the judgment debtor.

54. If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how attached.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorize a Village Court to attach or sell a debt charged on immovable property.

Private alienation of property after attachment to be void.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Investigation of claims to attached property.

57. If any claim is preferred to property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Sale of attached property.

58. As soon as possible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended

sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto:

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees. Proviso.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put to sale. Procedure in sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the decree-holder or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

60. Any sale advertised under this Act may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by Section 58. Powers to adjourn sale.

61. No Village Munsiff or other officer having any duty to perform in connection with any sale under this Act shall, either directly or indirectly, bid for or acquire any property sold at such sale. Village Munsiff and other officers not to bid for or buy property sold.

62. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff. Stoppage of sale on tender of debt and costs.

63. Out of the moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor. Division of proceeds of sale.

Property actually seized to be delivered to purchaser.

64. When the property sold is one of which actual seizure has been made the property shall be delivered to the purchaser.

Delivery of property to purchaser in other cases.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Transfer of decree for execution to Munsiff.

66. On the application of the decree-holder, a Village Court which passed a decree may, if the decree cannot be fully executed by itself, transfer it for execution to the Munsiff who may execute the same as if it were a decree passed by himself, or may transfer for execution to the Court of any other village in which the defendant is represented to have movable property. Such Court shall proceed as if the decree was passed by itself.

Munsiff may withdraw execution of any decree.

67. It shall be competent to the Munsiff to withdraw for just and sufficient cause the execution of any decree from any Village Court and to execute it himself, as if it were a decree passed by himself.

CHAPTER VII.

MISCELLANEOUS.

If on death of party to suit application is made, legal representative of deceased may be entered on record.

68. If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but the legal representative of a deceased defendant shall not be answerable for any decree that may be passed beyond the value of the assets derived from him and not duly accounted for.

If no application made, suit to be dismissed.

69. If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed and no fresh suit shall be allowed to be brought on the same cause of action.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

70. If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

If decree-holder dies his legal representative may be substituted.

71. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If judgment-debtor dies, decree may be executed against his legal representative.

72. If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

Revision by Munsiffs of proceedings of Village Court.

73. The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a Village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground—

of corruption, gross partiality, or misconduct of the Village Court; or

of its having exercised a jurisdiction not vested in it by law, or otherwise;

acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit:

Provided that no decree or order of a Village Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

(*Chapter VIII—Power to make rules*)

Munsiff may, and in certain cases shall, report to District Judge.

74. Whenever under section 73 the Munsiff sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Power of High Court to prescribe forms and of District Judge, Deputy Commissioner and Munsiff to inspect records.

75. The High Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit.

[1][**75A.** (1) The District Judge or the Deputy Commissioner or the Munsiff may at any time call for and inspect the registers and records of Village Courts.]

[2][(2) It shall be competent to the Deputy Commissioner to authorise generally or specially any Revenue Officer not below the rank of an Amildar to inspect the registers and records of Village Courts in his district.]

[3][**76.** The Court-fee leviable in the case of suits filed in Village Courts will be determined from time to time by the Government but in no case it shall exceed half the fee chargeable under the Court-fees Act.]

[2][CHAPTER VIII.

POWER TO MAKE RULES.

Power to make rules.

77. (1) Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for and regulate—

(*a*) the appointment of Village Munsiffs and members of a Bench under sections 4 and 6;

(*b*) the grant of copies of decrees and other records;

(*c*) the levy and disposal of fees for the service of process, execution of decrees, and grant of copies.]

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1. The second sentence of section 75 formed as sub-section (1) of a new section 75 A by Act IX of 1920.
2. Added by Act IX of 1920.
3. Substituted by Act VI of 1923.